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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/679,565	10/06/2003	Bradley K. Walker	15078-10001	3108

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EXAMINER
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BAYERL, RAYMOND J

ART UNIT	PAPER NUMBER
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2173

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/29/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

**Application No.**

10/679,565

**Applicant(s)**

WALKER ET AL.

**Examiner**

Raymond J. Bayerl

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 30 - 39, 68 - 76 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 30 - 35, 68 - 76 is/are rejected.
- 7) ☒ Claim(s) 36 - 39 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>9 Jan 2004</u> . | 6) <input type="checkbox"/> Other: _____  |

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1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 68 – 74 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

These claims are directed to “A computer readable data transmission medium”, which can be interpreted as merely a signal or a wave, and not a member of the 4 statutory classes of invention. Tangible fixation in a “real-world” storage medium is typically required for this form of claim.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

4. Claims 68 – 70 are rejected under 35 U.S.C. 102(e) as being anticipated by Ketonen et al. (“Ketonen”; US #6,973,478 B1).

As per independent claim 68, Ketonen, in implementing an AUTONOMOUS LOCAL ASSISTANT, will use a “data transmission medium” at some point containing a “data structure”, when a merchant presents timely and relevant information to customers after observing, analyzing and storing information about, and relating to, computer-mediated customer interactions (Abstract; col 6, lines 27 – 42). This is actually called an information context, as in “context information”, and since the

address is maintained for the client-side, "terminal location information" is maintained, along with "user identification" of some kind, as one would have for a customer. Then, functionality for defining periodic tasks, such as gathering, analyzing and displaying information on topics of interest, and direct interaction between the client-side system and the customer occurs in Ketonen (Abstract; col 8, lines 15 – 27), this amounting to a monitoring of "user preferences".

In a sales arrangement like Ketonen's, "special event information for the terminal location" (claim 69) also forms a part of the "context information", since the customer interactions will reflect those events taking place at the customer location.

Ketonen is a Web-based arrangement using HTML (col 2, lines 13 – 27), thus employing for browser communication coding such as that in an "XML format" (claim 70) that becomes an equivalent.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

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consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 30 – 35, 71 – 76 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ketonen and Durham (“Durham”; US #6,810,410 B1).

It has been noted that “context information” as in independent claim 30 is monitored and sent for use on a server-side in Ketonen, and “an overall user interface configuration” is developed and shown on the client-side, to include “applications for display”. While a certain amount of “transmitting” takes place between these two sides in Ketonen, the reference does not contain **explicit** teachings about “transmitting local configuration” to the server and “transmitting the overall user interface configuration...to the local terminal”.

However, Durham’s CUSTOMIZING A CLIENT APPLICATION USING AN OPTIONS PAGE STORED ON A SERVER COMPUTER specifically delivers an options page for client application, after a browser passes the user settings to the server computer, which generates a current version of the options page and downloads the options page to the browser for display (Abstract; col 7, lines 17 – 43).

Thus, it would have been obvious to a person having ordinary skill in the art at the time of applicant’s invention to use a bi-directional mode of “transmitting” between “client” and “server” to obtain a “user interface configuration” as taught by Durham, in the “context”-reporting “interface”-sending Web system of Ketonen, for this enables a greater degree of accuracy to be reflected in the final interface that a Ketonen customer will receive. Motivation to transmit “context” and return an “interface configuration” in

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this way would arise from the browser-based Ketonen scheme, in which one's "context" information is uploaded, and the developer at the server side would have an interest in just what the user sees, as timely and relevant information, to the point of sending back an actual "user interface configuration" as per Durham.

The Web-based Ketonen communications, in an HTML environment, as noted above, would suggest claim 31's use of "XML packet" "transmission" (see also claim 74). Also in Ketonen, where a significant client-side operation occurs, "retrieving local resources" (claims 32, 72) will take place, and a "locally stored overall user interface configuration" will be maintained (claims 33, 76), in order to have a proper final view, something that is also seen in getting an options page in Durham. In sending various bits of information to the user, Ketonen further uses "Internet resources" (claim 34, 73), and when the client-side page is updated with new information (or a new options page as per Durham), "updating the local configuration file" (claim 35) will become necessary.

As per independent claim 71, Durham will use a "data structure" in which "overall user interface configuration" details are specified, an obvious modification to the "application"-presenting Ketonen interface.

Independent claim 75's "method" would be seen, when "context information, including terminal location" is forwarded to the server in Ketonen, and then "an overall interface configuration" is specifically built there as per Durham and sent back "from the central server".

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8. Claims 36 – 39 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

As per claim 36, while “a plurality of screen application regions” might generally be seen in the final user interface of Ketonen, when made into an “overall user interface configuration” as in Durham, neither this art nor the remaining art now made of record teaches or suggests that an additional “control movie” be provided and played “in another selected one of the plurality of screen application regions”.

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

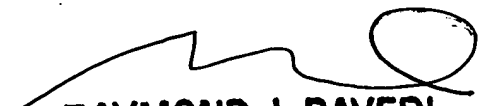
The remaining US Patent documents made of record (see attached form PTO-892) relate to customization or personalization of an interface obtained via a network connection.

10. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Raymond J. Bayerl, whose telephone number is (571) 272-4045. The Examiner can normally be reached on M – Th from 9:00 AM to 4:00 PM ET.

11. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Kristine Kincaid, can be reached at 571-272-4063. All patent application related correspondence transmitted by FAX **must be directed** to the central FAX number (571) 273-8300.

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12. Any inquiry of a general nature or relating to the status of this application of proceeding should be directed to the receptionist, whose telephone number is (571) 272-2100.



**RAYMOND J. BAYERL**  
**PRIMARY EXAMINER**  
**ART UNIT 2173**

28 March 2007